

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **October 11, 2005**

AGENDA ITEM NO.: 15

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Future Land Use Map Amendment – Medium Density Residential to Community Commercial. Rezoning – 2400 Block of Langhorne Road, R-4, Multi-Family Residential to B-3, Community Business District (Conditional).

RECOMMENDATION: Denial of the requested Future Land Use Map amendment and rezoning petition.

SUMMARY: Laird Lynchburg, LLC is petitioning to amend the Future Land Use Map from Medium Density Residential to Community Commercial and to rezone approximately 2.2 acres from R-4, Multi-Family Residential District to B-3, Community Business District to allow the construction of a 14,500 square foot pharmacy with 65 parking spaces. The Planning Commission recommended denial of the rezoning petition because:

- Petition does not agree with any aspect of the *Comprehensive Plan*.
- Petition proposes an entrance on Murrell Road that creates the potential for unsafe traffic conditions.
- Petition would require the demolition of sound housing stock and relocation of existing residents.

The recently completed Midtown Area Plan which received a favorably recommendation for adoption by the Planning Commission indicates that the subject property could be considered for redevelopment as part of a business and industry corridor if it was constructed using traditional neighborhood design principles as outlined in the plan.

PRIOR ACTION(S):

June 9, 2004: Planning Division recommended denial of the rezoning petition.
Planning Commission postponed action on the rezoning petition.

July 28, 2004: Planning Commission recommended denial (7-0) of the rezoning petition which had the following voluntarily submitted proffers:

1. The building, parking and landscaping will be in substantial compliance with the site plan entitled, Preliminary Site Layout for Rezoning for Walgreens by Architectural Services Group, Inc. dated 5/25/04.
2. Exterior lights will be glare shielded on the residential side.
3. The building exterior will be brick and EIFS. (a form of stucco or dryvit)
4. The retaining wall will be segmented block.
5. There will be a four foot high colored chain link fence on the retaining wall at the rear of the property.
6. The main sign is limited to twenty feet (20') in height, and will be bricked on the bottom (ground level).

August 10, 2004: City Council conducted public hearings on the Future Land Use Map amendment and rezoning petitions. It was the consensus of City Council to place the items on the September 14, 2004 work session agenda.

September 14, 2004: City Council conducted a work session on the Future Land Use Map and rezoning petitions.

October 12, 2004: A motion to amend the Future Land Use Map from Medium Density Residential to Community Commercial was defeated by the City Council.

October 12, 2004: A motion to postpone the rezoning request until the Midtown Area Study is completed was defeated by the City Council.

October 12, 2004: City Council voted to reconsider the rezoning request.

October 12, 2004: City Council postponed action on the rezoning petition until the Midtown Area Study is completed.

February 8, 2005: City Council voted to reconsider the rezoning petition and placed the item on the February 22, 2005 work session agenda.

February 22, 2005: City Council conducted a work session on the petition.

February 22, 2005: City Council voted to rescind the October 12, 2004 vote denying an amendment to the Comprehensive Plan.

February 22, 2005: City Council voted to postpone action on the Comprehensive Plan amendment until the Midtown Area Plan is completed.

July 19, 2005: Midtown Area Plan presented by Dover Kohl & Partners to a joint meeting of the Planning Commission and City Council.

August 9, 2005: City Council forwarded the Midtown Area Plan to the Planning Commission in order to begin the process for incorporation into the City's Comprehensive Plan 2002 – 2020.

September 14, 2005: Planning Division recommended approval of adopting and incorporating the Midtown Area Plan into the City's Comprehensive Plan 2002 – 2020.
Planning Commission recommended approval (6-0 with 1 member absent, Mr. Rick Barnes) of adopting and incorporating the Midtown Area Plan into the City's Comprehensive Plan 2002 – 2020.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 455-3902

Tom Martin / 455-3909

ATTACHMENT(S):

**All Attachments Can Be Viewed In The Office Of The City Clerk, 3rd Floor City Hall,
900 Church Street, Lynchburg Va. (Some Attachments Are Too Large To Be Posted)**

- Ordinance
- PC Report
- PC Minutes
- Site Plan
- Rendering
- TRC Comments
- Speaker sign up sheet

REVIEWED BY:

ORDINANCE

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP FOR THE PROPERTY IN THE 2400 BLOCK OF LANGHORNE ROAD FROM MEDIUM DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG that in order to promote the public necessity, convenience, general welfare, and good zoning practice that 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Amend the future land use map for the subject property from Medium Density Residential to Community Commercial in the 2400 Block of Langhorne Road.

The area embraced within the following boundaries:

Beginning at a ½" rebar (found) in the southwesterly right-of-way line of Langhorne Road; thence with the arc of a curve to the right having a chord bearing and distance of S 05° 39' 56" E 21.87', a radius of 15.00' and an arc length of 24.51' to a ½" rebar (found) in the northwesterly right-of-way line of Murrell Road; thence departing said rebar and continuing coincident with said right-of-way line S 41° 21' 22" W 363.66' to a set rebar and cap stamped "Miller Land Surveying LLC" (hereinafter called "MLS") in said right-of-way line; thence departing said rebar and continuing with a new divisional line the following five calls: N 48° 38' 38" W 146.24' to a "MLS" (set); thence N 43° 43' 03" E 36.28' to a "MLS" (set); thence N 45° 59' 08" W 25.00' to a "MLS" (set); thence N 43° 43' 03" E 28.18' to a "MLS" (set); thence N 46° 11' 58" W 117.93' to a "MLS" (set) in the southeasterly right-of-way line of Carrington Road; thence departing said rebar and continuing coincident with said right-of-way line of N 44° 07' 34" E 258.76' to a ½" rebar (found) in said right-of-way line; thence departing said rebar and continuing with the arc of a curve to the right having a chord bearing and distance of N 78° 35' 53" E 17.07', a radius of 15.00' and an arc length 18.16' to a ½" rebar (found) in the southwesterly right-of-way line of Langhorne Road; thence departing said rebar and continuing coincident with said right-of-way line the following two calls: S 66° 01' 55" E 86.62' to a drill hole in concrete (set); thence S 52° 07' 55" E 165.19' to the beginning containing 94,140 square feet, 2.161 acres more or less.

. . . is hereby amended on the Future Land Use Map from Medium Density Residential District to Community Commercial.

And the Director of Community Planning and Development shall forthwith cause the Official Land Use Map and the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504434-455-3900

To: Planning Commission
From: Planning Division
Date: July 28, 2004
Re: **COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT: Medium Density Residential to Community Commercial, in the 2400 Block of Langhorne Road, corner of Langhorne Road and Murrell Road.**

I. PETITIONER

Laird Lynchburg, LLC, 5500 Lonas Drive, Suite 300, Knoxville, TN 37923

Representative: Ms. Robyn Askew, Laird Lynchburg, LLC, 550 Lonas Drive, Suite 300, Knoxville, TN 37923.

II. LOCATION

The subject property is a tract of approximately 2.2 acres located in the 2400 Block of Langhorne Road between Murrell Road and Carrington Road.

Property Owners: Mr. Schaffer Oglesby, Village Oaks, L.P., 1401 Lakeside Drive, Lynchburg, VA 24501

III. PURPOSE

The purpose of this petition is to amend the City of Lynchburg Comprehensive Plan Future Land Use Map, specifically a portion of approximately 2.2 acres in the 2400 Block of Langhorne Road (Between Murrell Road and Carrington Road), from Medium Density Residential to Community Commercial to allow the construction of a pharmacy and associated parking.

IV. SUMMARY

- Petition does not agree with the *Comprehensive Plan* which recommends Medium Density Residential land uses for the subject property.
- Petition does not agree with the *Comprehensive Plan* which includes the subject property in the Plaza/Midtown Mixed Use Area
- Petition does not agree with the *Comprehensive Plan* which includes the subject property in the Plaza/Midtown Revitalization Area.
- Petition is an example of an expedient spot amendment that does not support the vision, plan framework policies, or goals and objectives of the *Comprehensive Plan*; the petition is not in the best interests of the City and serves primarily the interests of the property owner and developer. As such, it should not be considered.
- Petition proposes the use of the subject property as a pharmacy with associated parking, following demolition of 22 units of existing multifamily housing.
- Petition accompanies a petition to rezone the subject property from R-4, Multi-Family Residential to B-3(C), Community Business District (Conditional)

The Planning Division recommends denial of the Future Land Use Map Amendment petition.

V. FINDINGS OF FACT

1. **Medium Density Housing.** The Lynchburg *Comprehensive Plan* recommends a Medium Density Residential land use for the subject property. Medium Density Residential areas are characterized by small lot single family detached housing, duplexes, or townhouses at densities up to twelve (12) units per acre. Where medium density neighborhoods already exist, infill development should be at a compatible density and housing type.

The subject property was designated Medium Density Residential based on the current land use—apartments—and the projected future need for multifamily housing in the area. Medium Density Residential is compatible with E. C. Glass High School, an institutional use across Murrell Road, as well as the low scale professional office buildings across Langhorne Road.

The project as proposed would displace the residents of 22 units in the five and one half (5-1/2) existing apartment buildings proposed for demolition. Maintaining a variety of sound housing options and increasing the number of people that live in the neighborhood will be a key in the redevelopment of the area. Retail follows housing. Demolition of the existing apartment buildings will not further any of the goals or objectives of the *Comprehensive Plan*.

2. **Plaza/Midtown Mixed Use Area.** The *Comprehensive Plan* designates the subject property as being in the Plaza/Midtown Mixed Use Area, one of five such areas in the City. Mixed Use Areas are planned to include a combination of uses carefully laid out to complement each other and to mitigate any potential land use conflicts. The Plaza/Midtown is one area where most, if not all, of the existing uses could be incorporated into a redevelopment plan.

The Plaza/Midtown area was the City's first commercial area outside of the downtown and is planned for redevelopment. This area contains the Plaza Shopping Center, E. C. Glass High School, the City's main library, the City's main bus transfer center, office, and residential uses. The goal for this area as stated in the *Comprehensive Plan* is to redevelop the area into an integrated in-town community with a commercial retail core, surrounded by medium to high density housing, professional offices, with a complementing high school and library. The redevelopment is proposed to follow traditional neighborhood development principles and eliminate blight in the Plaza area.

The project as proposed would not further the concept of creating a commercial core for the Plaza/Midtown area as it would not be in close proximity to any other retail use and would require the demolition of medium density housing that is located around the commercial retail core.

3. **Plaza/Midtown Revitalization Area.** The *Comprehensive Plan* also designates the subject property as being in the Plaza/Midtown Revitalization Area, one of four such areas in the City. Revitalization Areas are older commercial areas that have experienced a decline in vitality and are targeted by the Comprehensive Plan for rehabilitation and/or redevelopment. Revitalization of the Plaza/Midtown area will meet many City goals, including: restoration of an historic mercantile area, elimination of vacancy and blight, provision of retail services and employment opportunities in close proximity to inner City neighborhoods, reliance on existing City infrastructure, possible reuse of existing buildings, and improvement in the City's image.

Ultimately, the City will develop and implement a revitalization plan for the area. The Comprehensive Plan contains general recommendations for revitalization areas that serve as interim policies to guide any changes proposed for these areas before revitalization plans can be adopted. The interim policies most relevant to the Plaza/Midtown Area are:

- The City should refrain from expanding business and industrial zoning in these areas.
- The City will entertain proposals for the addition or improvement of residential uses in and around revitalization areas to provide more customers for the businesses there. Such proposals should support neighborhood conservation goals.
- The City will entertain mixed use and/or TND redevelopment proposals for the Plaza/Midtown Area.
- Road improvement plans must consider not only the movement of through traffic, but also the movement of vehicles and pedestrians within these Revitalization Areas. Road improvement should not damage or further reduce community cohesion and aesthetic qualities.

The project as proposed is directly counter to each of these interim policies. First, it is an expansion of commercial zoning outside of the commercial core. Second, the project will result in the loss of housing essential to redevelopment of the area. Third, the proposed project is not a mixed use or TND redevelopment proposal. Such a proposal would incorporate the drug store into the commercial core, would require the building to front on the sidewalk, and would put the parking behind or at the side of the building. Fourth, the proposed project would place a high traffic generator—with a drive-through window—in close proximity to lower traffic generators (residences and professional offices). There is also a potential for conflict with E. C. Glass students and faculty at the beginning and end of the school day.

The *Comprehensive Plan* includes a description and recommendations specifically for the Plaza/Midtown Revitalization Area. As a retail area, the Plaza has been overshadowed by new retail developments elsewhere in the City. Residential areas in close proximity to the Plaza—west of Memorial Avenue between Alleghany Avenue and Wadsworth Street and along Oakley Street—have been rezoned to permit

businesses uses, and subsequently many of the existing houses have been converted for a range of business uses.

According to the Plan, the Plaza/Midtown area represents a significant opportunity for reinvestment and redevelopment into an integrated in-town mixed use community with a commercial core, medium to high density housing, and professional offices, as outlined in the City's TND Ordinance. Plaza/Midtown already includes some of the civic uses and transportation resources desired in a TND. New residential and office uses need to be added and retail areas redeveloped in order to achieve a balance of uses contemplated in a TND. The addition of new residential areas is essential to the revitalization of retail and should be a focus of City revitalization efforts.

In addition to the general recommendations and interim policies for all revitalization areas outlined above, the *Comprehensive Plan* lists the following issues that need to be addressed specifically in the revitalization plan for the Plaza/Midtown area:

- Feasibility of redevelopment of The Plaza Shopping Center as a pedestrian and transit-oriented retail core for the area
- Addition of residential uses in and around the Plaza and along the Atherholt and Tate Springs road extensions
- Addition of office uses with proximity to the hospital
- Site and building design to take advantage of the excellent views of the Blue Ridge Mountains from the Plaza site
- Redevelopment or aesthetic improvements to the strip commercial along Memorial Avenue
- Incorporation of TND principles in the design of the area

The project as proposed is just the opposite of what is needed to address these issues. First it would detract from the feasibility of redeveloping the Plaza as the retail core. Second, it would subtract rather than add residential uses. Lastly, the design of the project does not follow TND principles and would detract from surrounding uses that do. For example, the professional offices across Langhorne Road are low scale, separated from the sidewalk only by a narrow landscaped yard, and have parking in the rear.

4. Expedient Spot Amendment.

Chapter 17 of the Comprehensive Plan includes a description of the process to amend the plan. One of the circumstances in which a plan amendment would be necessary is occurs when "[a] private sector proposal for development or redevelopment is not in conformance with the plan and requires a rezoning or conditional use permit as well." The applicant for the rezoning (or conditional use permit) is to petition for the Future Land Use Map amendment along with the rezoning. City staff is to review the petition for the amendment and make a recommendation to the Planning Commission as is done for the rezoning.

The Plan continues:

In reviewing plan amendments, the City will consider whether the proposal supports the vision, plan framework policies, and goals and objectives of the Comprehensive Plan. Expedient spot amendments that do not support the vision, framework, policies, and goals and objectives of this Comprehensive Plan; that are not in the best interests of the City; and that serve only the interests of the property owner will not be considered. (page 17.5)

Since this proposal is in direct opposition to the land use designation (Medium Density Residential) and is not in agreement with the concept and recommendations for either the Plaza/Midtown Mixed Use Area or the Plaza/Midtown Revitalization Area, it does not support the Comprehensive Plan and is not in the best interests of the City. Therefore, this plan amendment should not be considered.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council denial of the petition of Laird Lynchburg, LLC to amend the City of Lynchburg

Comprehensive Plan from Medium Density Residential to Community Commercial in the 2400 Block of Langhorne Road between Murrell Road and Carrington Road for the construction of a pharmacy and associated parking.

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. R. Douglas Dejarnette, Fire Marshal
Ms. Judith C. Wiegand, AICP, Senior Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Kent White, Environmental Planner
Ms. Robyn Askew, Petitioner/Representative

MINUTES FROM THE JULY 28 PLANNING COMMISSION MEETING

These minutes have been reviewed by, but not approved by the Planning Commission

Petition of Laird Lynchburg, LLC to amend the Future Land Use Map for approximately 2.2 acres in the 2400 Block of Langhorne Road, from Medium Density Residential to Community Commercial.

Mr. Tom Martin, City Planner, explained that this petition proposed an amendment to the Comprehensive Plan's Future Land Use Map (FLUM) for the property located in the 2400 block of Langhorne Road. He said the proposal would change approximately 2.2 acres from Medium-Density Residential to Community Commercial to facilitate the rezoning of the property from R-4 Multi-Family Residential to B-3 Community Business District (Conditional) to allow for the construction of a 14,500 square foot pharmacy with 65 parking spaces. He said that the Planning Commission needed to decide at this meeting if a change in the Future Land Use Map was justified.

Mr. Martin explained that the Planning Division believed that the petition did not agree with any aspect in the Comprehensive Plan, which was adopted in 2002 and was a guide for the City's development and redevelopment for the next 20 years. He continued by saying that the Comprehensive Plan recommended a Medium-Density Residential Use for the subject property, characterized by small lots, single-family housing, duplexes and townhomes with densities of up to twelve units per acre. He added that where neighborhoods already existed infill development should be compatible in scale, density, and housing type. He noted that this proposal was not compatible in scale, in use, would require the demolition of five and one half existing apartment buildings, and would displace existing residents from the neighborhood.

Mr. Martin said that the Comprehensive Plan included this area in the Plaza/Midtown Mixed Use area (Plaza/Midtown MXD), and continued to explain that the Mixed Use areas were planned to include a combination of uses carefully laid out to complement each other, with potential land use conflicts to be mitigated. He said the existing uses in the Plaza/Midtown MXD could be incorporated into the redevelopment plan, and pointed out that many of the needed uses were already in place, such as a main bus transfer terminal, the library, E.C. Glass High School, and the hospital.

Mr. Martin said these areas should also be redeveloped following Traditional Neighborhood Development principles of the Commercial Core. He explained that the Planning Division believed that the submitted plan and proposal was not a mixed use. He said the submitted plan indicated a typical retail use facility with a building setback of over ninety feet from the property line and surrounded by parking. Mr. Martin added that the required front yard set back in the area was twenty feet with typical existing building set backs in the area being twenty-five to thirty feet with parking to the sides and rear of the buildings. Continuing, he explained that the submitted plan did not incorporate any Traditional Neighborhood Development (TND) principles of buildings in relation to streets or pedestrians, and added that given the fact that there were a multitude of auto-oriented businesses and services in the City, when developing the Comprehensive Plan the City saw the older neighborhood as an opportunity for redevelopment and a mixed-use village approach where people could live, work, and shop by foot if they choose. He said the main focus of the proposed development was that of an automobile. Mr. Martin explained that the Comprehensive Plan included this area in the Plaza/Midtown Revitalization Area, noting that the Plaza was one of the oldest commercial areas in the City outside of the downtown. He said the Plaza was planned to be revitalized and was targeted as being the commercial core for the area. Mr. Martin said that entertaining spot amendments to the plan for redevelopment of retail uses would over shadow the Plaza as the retail core.

Mr. Martin said that the Comprehensive Plan recommended refraining from expanding business and industrial zoning in this area. He said the proposal was for a commercial map amendment and a commercial rezoning, and explained that the Comprehensive Plan recommended entertaining proposals for the addition of residential uses in the area. He noted that the proposal would demolish sound housing stock and remove existing residents from the area. He added that the Comprehensive Plan recommended entertaining mixed use and TND redevelopment proposals. He said the submitted plan was a typical sprawl-type development that followed no TND principals and again was not a mixed use.

Mr. Martin added that road improvement plans must consider the movement of through traffic, but also the movement of pedestrians and vehicles in the area. Mr. Martin said there was no consideration given as to how the development would effect the pedestrian and very limited thought had been given to vehicular traffic other than what was best for the proposed pharmacy use.

Mr. Martin said Chapter 17 of the Comprehensive Plan described the process for a plan amendment that was similar to that of a rezoning amendment. He continued by saying that at the May 18, 2004 Technical Review Committee (TRC)

meeting, Comment 5 from the Planning Division stated that, "The Future Land Use Map Amendment will be required in order for the rezoning to occur. Submit a letter requesting an amendment to the Land Use Map from Medium-Density Residential to Community Commercial". A letter requesting that change was received by the Planning Commission on June 9, 2004. Quoting from the plan, he continued, "In reviewing plan amendments the City will consider whether the proposal supports the vision, plan framework, policies, and goals and objectives of the Comprehensive Plan. Expedient spot amendments that do not support the vision, framework policies, and goals and objectives of this Comprehensive Plan; that are not in the best interest of the City; and that serve only the interests of the property owners will not be considered."

As demonstrated above, Mr. Martin continued, the proposal did not meet any of the policies, goals or objectives of the Comprehensive Plan. He said the Planning Division recommended denial of the proposed Future Land Use Map amendment as it did not further the policies, goals or objectives of the Comprehensive Plan. He added that the plan was less than two years old and there had been no change in the area justifying a change in the Land Use Map. He said the Planning Division believed that this would not serve the best interest of the neighborhood or the City.

Mr. Ted Craddock, lawyer, 2306 Atherholt Road, represented Laird Lynchburg, LLC in this Future Land Use Map amendment. He explained that the property under consideration was currently owned by Village Oaks, LP, and one of the principals in that ownership, Mr. Schaeffer Oglesby, was in attendance at this meeting. Mr. Craddock reminded the Commission that this portion of the street from Holy Cross School to Memorial Avenue included several banks, filling stations, florist, offices, the local TV station, the hospital, a high school, and many other businesses, plus two residential areas. He said the petitioner was asking to remove five and one half of the buildings, which included removing the parking from Langhorne Road. Mr. Craddock said there were currently twenty-five vacant units, but only eight vacancies were in the buildings that were scheduled to be demolished. He said people did not want to live in the units fronting on Langhorne Road, and asked how this project would be detrimental and forever change this area. He noted that the project would replace five of those tired apartments, close to a busy commercial thoroughfare with an expensive, well-designed, well landscaped pharmacy, retaining many of the large trees, and added that the residents of the area would benefit from the pharmacy. Mr. Craddock said there would be foot traffic from the businesses and residents in the area, and said that the development would benefit the City and provide employment.

Mr. Craddock addressed the Comprehensive Plan concerning the Future Land Use Map. He said the FLUM showed this area as "Midtown Mixed", meaning mixed use for residential, businesses, and offices. He continued by saying that Chapter 5 of the Comp Plan said the Mixed-Use areas and the Midtown MXD had a goal to revitalize the area, and said this was what this project would do. He noted that Paragraph 5.6 indicated that in the Midtown use areas that did not fit a single use category were shown under the "Xs" on the diagram at this meeting. Mr. Craddock continued by saying that if only retail was located in the Plaza, what would happen to the Mixed-Use area they had been talking about. He said the Plaza already had mixed uses, and was not entirely commercial retail. He pointed out that if the Land Use Plan demanded more Medium Density housing, then there was property off Atherholt Road that could be utilized as well as available areas in the Langhorne area. He said he understood that Planning Division's argument as this: "We determine the Plaza to be a part of the Mix-Use plan. No community retail is going anywhere in this area but the Plaza. No community businesses currently on Langhorne will now be able to go anywhere but in the Plaza, because that is going to be the community district. This does not benefit the City". He added that he differed with Mr. Martin's comments indicating that this was an expedient spot amendment, which did not support the plan at all. Mr. Craddock said any retail on Langhorne Road would not be a spot amendment. He added that this pharmacy would benefit the neighborhood and would draw from existing traffic on Langhorne Road. He explained his view of a mixed use as commercial, retail, residential, institutional and all of these things in conjunction with each other. He said what Ms. Askew wanted to do was put in an attractive commercial enterprise in conjunction with the apartments, businesses across the street, and with the properties that were around, and if the Planning Commission believed that an amendment to the Land Use Map must be made for projects such as this, then he asked them to do just that. He said they were talking about tax revenue, employment, and convenience to neighbors. Mr. Craddock respectfully requested that the Planning Commission recommend this project to City Council.

Mr. Phillip Royer, Architect with ASG, told the Commission that he could answer any questions they might have concerning the design of the site. He referred to one item Mr. Craddock brought up was that they did retain some large trees at the request of the Planning staff. He noted that the trees being retained were tulip poplars, oaks, and one holly tree. He said even though they were doing a lot of grading on the site, they had been able to retain these trees located around the perimeter.

Mr. Schaefer Oglesby, a principal in Village Oaks LP, addressed the Planning Commission. Mr. Oglesby said he checked before this meeting and found that there were currently twenty vacancies at Village Oaks with twenty-two units being displace. He said explained that 1985 the apartments were renovated, but need renovations now. He

added that it was difficult to rent the properties facing Langhorne Road because people do not want to park their cars on that street. He said if the rezoning was granted, he intended to buy his partners out which would give him control of the balance of the apartments. He said he spoke with Mr. Martin and they came up with an idea which would allow by zoning the construction of twenty-two units in the form of duplexes on the back portion of the property. He said he wanted to increase the number of units to 100 from the current 78. He said he realized that there was no guarantee to the Planning Commission that he would do what he was describing, but added that he had been around long enough that most of them know that he does what he says he is going to do. Mr. Oglesby added that at the same time he would be adding the new units, he would be able to refinance the whole complex and modernize and upgrade the 78 units that exist. He said the units would become an asset to the community.

Mr. Chris Gentry, Milton Realty Service Company, 7806 Timberlake Road spoke in support of the petition. He said for approximately five years he and Ms. Askew had been looking for a site on Langhorne Road for a Walgreens. He said he wanted to make some comments concerning the Findings of Fact in the Planning Division's report. He said the residents in the units that were set for demolition would be relocated at the owner's expense either within the existing development or at a nearby property. He said the number of renters who had given notice to be out by the end of the current month would bring the vacancies to twenty-five units. He noted that seventeen of those vacancies were in units other than the units slated for demolition.

Mr. Gentry said this project would give Mr. Oglesby the opportunity to make renovations, construct more units, and create a nicer development, which would hopefully achieve lower vacancy rates and bring more residents to the areas. He said it was hard to argue that they were destroying housing stock when the development as it stood was experiencing high vacancy rates. He added that in Item 2 – Plaza Mid-Town Mixed Use Area – the proposed development was basically a Mixed-Use development in itself with the pharmacy complementing the existing multi-family units. He said the convenience items that would be offered in the pharmacy would serve as an amenity in the neighborhood. He said the proposed use was a neighborhood pharmacy, which would thrive on existing neighborhoods in proximity to the medical hub and would not thrive in what was referred to here as a commercial core, similar to the Plaza.

Mr. Gentry added that the stated goals of revitalization (Paragraph 3) were to eliminate vacancy and blight, and to provide employment and retail opportunities in close proximity to intercity neighborhoods. He said none of the business owners in the area had protested this development, and in fact, he continued, they all stated that they thought this development would be beneficial to the area and would clean up that corridor. He noted that the average build from Tate Springs Road to the Chamber of Commerce on Memorial Avenue was 1965 with the most recent construction being the CVS drug store in 1999. He said the low-scale use referred to in the Planning Division's report were all B-1 uses, but the proposed development fell into a B-3 category and could not function in the design parameters of B-1 zoning. He added that the number of vacant business properties on Langhorne Road there were very few, and those vacant buildings did not have enough parking, the size was not easily divided, or had physical characteristics that limited the use. He said the subject property had a high vacancy rate and was failing as a residential development as it currently stood.

Mr. Gentry said he thought this commercial development was the highest and best use of the front of this property, and added that there were only three properties between Memorial Avenue and Tate Springs Road not zoned business and this was one of them. He said these circumstances dictate a change to the Future Land Use Map and Comprehensive Plan. He continued by noting that the FLUM was not static and could be changed due to changing conditions, and that the Comp Plan should only be used as guideline. Mr. Gentry said that in his opinion, this development did support the goals, framework and policies of the Comp Plan by improving and revitalizing the commercial corridor on Langhorne Road. He added that this development would enhance and provide a service to surrounding neighborhood without making a detrimental impact to the existing housing stock. He concluded by saying that the proposed development would serve the best interest of the City by creating employment, increasing the tax base, revitalizing area, and providing necessary service to the neighborhood.

Ms. Robyn Askew, Principal in Laird Development, located in Knoxville, Tennessee, addressed the Commission. Ms. Askew said she concurred with the speakers before her and added that she read the Comprehensive Plan and believed strongly that what they were proposing for this site fit squarely within what the City and the citizens had indicated that they want in this area.

Chair Dahlgren read a letter from Mr. Earl Dickerson, Jr., partner in 2524 Properties, LLC, stating their support for the rezoning petition for the 2400 block of Langhorne Road.

Mr. Bill Connelly, resident of the Langhorne Road area, expressed his concern that if this petition was approved, it would set a dangerous precedent for the future and damage the value of the surround property. He said only two of the buildings proposed for demolition faced Langhorne Road, with the other buildings facing Murrell. He commented that Mr.

Craddock did not live on the same end of Langhorne Road as the proposed project. Mr. Connelly said no one would want to cross Langhorne Road because of the heavy traffic unless an overpass or underpass was constructed. He noted that of the two service stations Mr. Craddock mentioned, only one was still in operation, with the second station being abandoned and in need of a cleaned up. He suggested that Walgreens help redevelop areas on Langhorne Road instead of destroying what was there.

Mr. Craddock gave a rebuttal. He said the buildings on the corner of the site faced the TV Station and the four remaining buildings faced Murrell Road. He said Mr. Connelly was correct in that one gas station was closed, but the site was zoned for a gas station. He said this project would benefit the residential area behind the site and was designed to capitalize on the existing traffic flow.

Commissioner Bacon reported that she had a phone call before this meeting from Mrs. Joseph Martin on Westerly Drive who could not attend this meeting. Mrs. Martin said she, her husband and some of the other neighbors on Westerly Drive were very concerned with the existing traffic issues along Langhorne Road, particularly when the school was in session. Commissioner Bacon said Mrs. Martin indicated that they would prefer that Walgreens not be allowed to go on that site, but they felt it was hopeless due to the fact that they previously petitioned the City to keep Westerly Drive closed, but that did not happen.

Commissioner Echols asked how many more housing units were going to go into Lynchburg.

Mr. Oglesby responded by saying that most of the focus on housing going up now was on the higher end, upper-middle to high income level. He said his apartments were for people of a moderate-income level.

Commissioner Pulliam asked if this rezoning was granted and Walgreens did build on this site, how could the City deny any future petition if another business wanted to locate on the lower half of the property.

Mr. Martin said they would be hard pressed to deny a similar petition for the lower half of the property because the Commission would have already set precedent and gone against the Land Use Plan.

Commissioner Worthington asked if the entrance to Murrell Road had been moved further away from the intersection at Langhorne Road since the rezoning came before them in June.

Mr. Martin explained that Mr. Gerry Harter, City Traffic Engineer, had forwarded an e-mail to him from an engineer with Hurt and Proffitt stating that Walgreens had made some concessions and tried to move the entrance on Murrell Road. However, he reminded the Commission, they were here to determine if this was an appropriate land use for the area.

Commissioner Echols commented that he did not know why this was the only optimal site in Lynchburg.

Commissioner Bacon said there was another drugstore already on Langhorne Road that was in a commercial area. She commented that this site was wonderful for the people who live there now. She added, though, the City designated this area for Medium to High-Density Residential, because it was adjacent to a school.

Chair Dahlgren said as they worked on the Comprehensive Plan, their intent was not to infringe upon businesses that were already in existence. He said they realized that in some of the areas businesses already existed, but they were not going to infringe upon their opportunity to stay in operation. He said the City designed the process to work on the neighborhoods which would develop as time went on.

Commissioner Flint said to allow this store for people to stop to get bread and milk would make it hard for a store to ever succeed in the Plaza. He voiced his vote against the FLUM request.

Commissioner Hamilton said she was torn. She said it was a shame that there were no essential services within walking distance in that area. She said she agreed with Commissioners Bacon and Flint in that the right place to put the drug store was the Plaza and that was where the City needed to start creating a TND. If they were truly going to develop a Traditional Neighborhood Development, she continued, they needed to make room for high-density development. She said maybe this was not the right opportunity for Mr. Oglesby to give his apartments a shot in the arm. Commissioner Hamilton said there needed to be housing and there needed to be essential services, but maybe this is not the right place for it.

Commissioner Echols said the citizens of the community worked hard to develop this Comprehensive Plan and took over two years to prepare. He said they did not want to jump the ship; changing the Comp Plan was not good planning.

Commissioner Worthington said the Comprehensive Plan was a living, breathing document, and added that the Commission should not turn down a project because it was not in the Comp Plan. He said each proposal needed to be looked at on its own merits, and noted that if they applied that principal to this petition, then they would have to apply it to every petition. He said he understood some of the reasons for this petition, but also understood that the Commission needed to be flexible when they looked at the plan. Commissioner Worthington said it would probably be difficult to develop the Plaza since nothing had happened at that site for a long time, but added that he was willing to go along with that idea and give it a trial run.

Chair Dahlgren said when they developed the Comp Plan they agreed that it was not lapidary and wanted to make sure everyone understood that. He said he could not condone changing the Plan for this request.

After discussion Commissioner Pulliam made the following motion which was seconded by Commissioner Echols and passed by the following vote:

“That the Planning Commission recommends to the City Council denial of the petition of Laird Lynchburg, LLC to amend the City of Lynchburg Comprehensive Plan from Medium Density Residential to Community Commercial in the 2400 Block of Langhorne Road between Murrell Road and Carrington Road for the construction of a pharmacy and associated parking.”

AYES:	Bacon, Dahlgren, Echols, Flint, Hamilton, Pulliam, Worthington	7
NOES:		0
ABSTENTIONS:		0

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM R-4, MULTI-FAMILY RESIDENTIAL DISTRICT TO B-3, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, that in order to promote the public necessity, convenience, general welfare, and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain area from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional).

The area embraced within the following boundaries . . .

Beginning at a ½" rebar (found) in the southwesterly right-of-way line of Langhorne Road; thence with the arc of a curve to the right having a chord bearing and distance of S 05° 39' 56" E 21.87', a radius of 15.00' and an arc length of 24.51' to a ½" rebar (found) in the northwesterly right-of-way line of Murrell Road; thence departing said rebar and continuing coincident with said right-of-way line S 41° 21' 22" W 363.66' to a set rebar and cap stamped "Miller Land Surveying LLC" (hereinafter called "MLS") in said right-of-way line; thence departing said rebar and continuing with a new divisional line the following five calls: N 48° 38' 38" W 146.24' to a "MLS" (set); thence N 43° 43' 03" E 36.28' to a "MLS" (set); thence N 45° 59' 08" W 25.00' to a "MLS" (set); thence N 43° 43' 03" E 28.18' to a "MLS" (set); thence N 46° 11' 58" W 117.93' to a "MLS" (set) in the southeasterly right-of-way line of Carrington Road; thence departing said rebar and continuing coincident with said right-of-way line of N 44° 07' 34" E 258.76' to a ½" rebar (found) in said right-of-way line; thence departing said rebar and continuing with the arc of a curve to the right having a chord bearing and distance of N 78° 35' 53" E 17.07', a radius of 15.00' and an arc length 18.16' to a ½" rebar (found) in the southwesterly right-of-way line of Langhorne Road; thence departing said rebar and continuing coincident with said right-of-way line the following two calls: S 66° 01' 55" E 86.62' to a drill hole in concrete (set); thence S 52° 07' 55" E 165.19' to the beginning containing 94,140 square feet, 2.161 acres more or less.

. . . is hereby changed from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional), subject to conditions setout hereinbelow which were voluntarily proffered in writing by the owner, namely: Schaffer Oglesby and Village Oaks, L.P. to wit:

1. The building, parking and landscaping will be substantial compliance with the site plan entitled Preliminary Site Layout for Rezoning for Walgreens by Architectural Services Group, Inc. dated 5/25/04.
2. Exterior lights will be glare shielded on the residential side.
3. The building exterior will be brick and EIFS. (a form of stucco or dryvit)
4. The retaining wall will be segmented block.
5. There will be a four foot high colored chain link fence on the retaining wall at the rear of the property.
6. The main sign is limited to twenty feet (20') in height, and will be bricked on the bottom (ground level).

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this Chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504 434-455-3900

To: Planning Commission
From: Planning Division
Date: June 9, 2004
Re: **REZONING: 2400 Block of Langhorne Road, R-4, Multi-Family Residential to B-3, Community Business District (Conditional).**

I. PETITIONER

Laird Lynchburg, LLC, 5500 Lonas Drive, Suite 300, Knoxville, TN. 37923.

Representative: Ms. Robyn Askew, Laird Lynchburg, LLC, 5500 Lonas Drive, Suite 300, Knoxville, TN 37923.

II. LOCATION

The subject property is a tract of approximately 2.2 acres located in the 2400 Block of Langhorne Road between Murrell Road and Carrington Road.

Property Owner: Mr. Schaffer Oglesby, Village Oaks, L.P., 1401 Lakeside Drive, Lynchburg, VA 24501.

III. PURPOSE

The purpose of the petition is to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road (between Murrell Road and Carrington Road) from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow the construction of a pharmacy and associated parking.

IV. SUMMARY

- Petition disagrees with the Comprehensive Plan which recommends a Medium Density Residential use for the subject property.
- Petition proposes the demolition of seven (7) apartment buildings which would be detrimental to the character of the area.

The Planning Division recommends denial of the rezoning petition.

V. FINDINGS OF FACT

2. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Medium Density Residential Use for the subject property. These areas are characterized by small lot single family detached housing, duplexes or townhouses at densities up to twelve (12) units per acre. Where neighborhoods already exist, infill development should be at a compatible density and housing type.

The *Comprehensive Plan* also designates the subject property as being in the Plaza/Midtown Mixed Use area. This area was the City's first commercial area outside of the downtown and is planned for redevelopment. This area contains the Plaza Shopping Center, E.C. Glass High School, the City's main library, the City's main bus transfer center, office and residential uses. The goal for this area as stated in the *Comprehensive Plan* is to redevelop the area into an integrated in-town community with a commercial retail core, surrounded by medium to high density housing, professional offices, with a complementing high school and library. The redevelopment is proposed to follow traditional neighborhood development principles and eliminate blight in the Plaza area.

The proposed rezoning of the property from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow the construction of a pharmacy, is not consistent with any aspect of the Future Land Use Map (FLUM) or the text of the *Comprehensive Plan*. The project as proposed would not further the concept of creating a commercial core for the area as it would not be in close proximity to any other retail use.

The project as proposed would displace the residents of the seven (7) existing apartment buildings proposed for demolition which have four (4) to five (5) units each. Maintaining a variety of sound housing stock, and increasing the number of people that live in the neighborhood will be a key in the redevelopment of the area. Retail follows housing. The demolition of the existing apartment buildings will not further any of the goals or objectives of the *Comprehensive Plan*.

The *Comprehensive Plan* also states that when a rezoning or conditional use permit petition is not in compliance with the plan the petitioner will need to petition for a plan amendment. Although the petitioner was informed of this requirement at the May 18, 2004 Technical Review Committee meeting, they have not chosen to request a plan amendment. The Planning Division does not recommend deviating from the Future Land Use Map, nor would it support a plan amendment for the area.

3. **Zoning.** The subject property was annexed into the City in 1926. The property was zoned for single-family residential uses until 1949, when it was zoned for multi-family uses. The current R-4, Multi-Family Residential District was established in 1978 with the adoption of the current Zoning Ordinance.
4. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 - The building, parking and landscaping will be substantial compliance with the site plan entitled Preliminary Site Layout for Rezoning for Walgreens by Architectural Services Group, Inc. dated 5/25/04.
 - Exterior lights will be glare shielded on the residential side.
 - The building exterior will be brick and EIFS. (a form of stucco or dryvit)
 - The retaining wall will be segmented block.
 - There will be a four foot high colored chain link fence on the retaining wall at the rear of the property.
 - The main sign is limited to twenty feet (20') in height, and will be bricked on the bottom (ground level).
5. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.
6. **Previous Actions.** The following items in the immediate area have required City Council approval:
 - On August 9, 1983 the City Council approved the CUP petition of Television Development for a TV studio / satellite at 2416 Langhorne Road.
 - On June 11, 1985 the City Council approved the CUP petition of Central VA. Psychiatric Associates, Inc. for a care center, outpatient mental health facility, and school at 2303 Yorktown Avenue.
 - On April 11, 1989 the City Council approved the rezoning petition of William H. Burruss at 2303 Yorktown Avenue from R-4, Multi-Family Residential District to B-1, Limited Business District (Conditional) to allow the construction of an office complex.
 - On February 13, 1990 the City Council approved the rezoning petition of Snyder Hunt Corporation in the 2200 Block of Murrell Road from R-4, Multi-Family Residential District to B-1, Limited Business District (Conditional).
 - On February 13, 1990 the City Council approved the CUP petition of Snyder Hunt Corporation for an adult care facility in the 2200 Block of Murrell Road.
 - On July 13, 1993 the City Council approved the rezoning petition of Elderberry Nursing Home, Inc., at 2303 Yorktown Avenue from R-4, Multi-Family Residential District to B-1, Limited Business District (Conditional).
 - On October 12, 1993 the City Council approved the rezoning petition of Giles, Cox and Associates at 2102 Langhorne Road from R-4, Multi-Family Residential District to B-1, Limited Business District (Conditional).
 - On June 13, 2000 the City Council approved the rezoning petition of Surgery Center of Lynchburg at 2401 Atherholt Road from R-4, Multi-Family Residential District to B-1, Limited Business District (Conditional).
 - On May 14, 2002 the City Council approved the rezoning petition of William H. Burruss, Jr. at the 2400 Block of Atherholt Road from R-4, Multi-Family Residential District to B-1, Limited Business District (Conditional).
7. **Site Description.** The subject property is bounded to the north (across Langhorne Road) by office uses, to the east (across Murrell Road) by an institutional use (E.C. Glass High School) and to the south and west (across Carrington Road) by apartment uses.

8. **Proposed Use of Property.** The purpose of the rezoning is to allow the demolition of seven (7) existing apartment buildings to facilitate the construction of a pharmacy with associated off street parking areas.
9. **Traffic and Parking.** The City Traffic Engineer has requested that the proposed entrance to the property from Murrell Road be moved further south away from the intersection of Murrell Road and Langhorne Road. The proposed entrance is approximately one hundred (100) feet from the intersection. When traffic is backed up at the intersection of Langhorne Road and Murrell Road, vehicles will not be able to leave the property or there is the possibility for vehicles trying to leave the site to block the thru lane of opposing traffic on Murrell Road. The location of the proposed entrance also creates a sight distance concern with vehicles making a right turn onto Murrell Road from Langhorne Road. With the entrance in the proposed location there is not adequate distance for vehicles to ingress or egress the property without the potential for an accident with another vehicle making a right turn. The location of the entrance as proposed will cause the entire intersection to operate less efficiently causing delays and unsafe traffic conditions.

Section 35.1-25, Off-street parking and loading, of the Zoning Ordinance requires that one (1) parking space be provided for each three hundred (300) square feet of gross floor area plus one (1) space for each three (3) employees on duty at any one time. The project as proposed would require a total of fifty-one (51) parking spaces. The submitted site plan indicates a total of sixty-five (65) parking spaces on the site.

10. **Stormwater Management.** A stormwater management plan will be required for the building and parking additions because disturbed areas will exceed 1,000 square feet. The redevelopment of the property will result in an increase of impervious area. In addition, the existing storm sewer system located in Murrell Road has been evaluated by the petitioner and is currently at or close to its maximum capacity. Stormwater detention will be provided for the two (2) and ten (10) year storm by the use of an underground detention system. Water quality will be addressed through the use of a pre-fabricated structural device prior to the stormwater entering the City's storm sewer system from the detention system.

11. **Impact.** The petition proposes to rezone the property from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow the construction of a pharmacy and associated parking similar in size and design to the current Walgreens facility located on Wards Road.

The property has been zoned for residential uses since its annexation into the City in 1926. The existing apartment buildings containing four (4) to five (5) units each were constructed in 1949 and were remodeled in 1986. The apartment buildings are listed as being in good condition by the Assessor's office.

The submitted site plan indicates the construction of a typical retail facility with a building setback of over ninety (90) feet from the property line surrounded by the required parking spaces. The typical building setback in the area is twenty-five (25) to thirty (30) feet with parking in the rear or to the sides of the buildings. The required front yard setback for the building is twenty (20) feet. The submitted proffers indicate a ground sign of twenty (20) feet in height, while the majority of the signs in the area are of monument style.

The property contains twenty-two (22) large diameter deciduous and coniferous trees. Of the existing trees on the site only seven (7) are able to be retained. A vegetative evergreen buffer would be required in all instances where the property abuts a residential district. This requirement would necessitate a buffer on the southern, eastern and western property lines.

While the petitioner should be commended for the retention of some of the existing mature trees and design of the canopy over the drive thru window the Planning Division can not support the rezoning of the property. Moving the building closer to Langhorne Road and placing the parking areas to the sides or rear of the building would be more in keeping with traditional neighborhood development principles as recommended for the area by the *Comprehensive Plan*. However, the proposed pharmacy is still not the highest and best use for the property. Approval of the rezoning would be detrimental to and forever change the character of the area.

12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on May 18, 2004. Comments of the TRC are attached.
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VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends denial of the petition of Laird Lynchburg LLC to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional).

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. R. Douglas Dejarnette, Fire Marshal
Ms. Judith C. Wiegand, Senior Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Kent White, Environmental Planner
Ms. Robyn Askew, Representative

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
(see attached map)
- 2. Vicinity Proposed Land Use**
(see attached map)
- 3. Site Plan**
(see attached site plans)
- 4. Renderings**
(see attached renderings)
- 5. TRC Comments**
(see attached comments)

MINUTES FROM THE JUNE 9 PLANNING COMMISSION MEETING

Petition of Laird Lynchburg, LLC to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow the construction of a pharmacy.

Mr. Martin told the Planning Commission that the construction of the proposed facility would require the demolition of seven existing apartment buildings. He said the Comprehensive Plan recommended a Medium-Density Residential use for the subject property, and the property was also indicated as being part of the Plaza, Mid-Town Mixed Use area. He noted that this area was the City's first commercial area outside of downtown and it was intended for redevelopment that would contain a commercial core surrounded by medium to high-density housing and professional offices with a complementing high school, library, and main bus transfer center. Mr. Martin explained that the redevelopment of the area was to follow the Traditional Neighborhood Development principles, and added that maintaining the variety of housing stock and increasing, not decreasing, the number of residents would be the key of redevelopment of this area. He said the City's Traffic Engineer had noted comments of concern relating to the proposed entrance to the site from Murrell Road, which would result in unsafe traffic conditions. Mr. Martin added that while the petitioner should be commended for the efforts to save several mature trees along the frontage of the property, construction of a typical retail facility would be detrimental and severely change the character of the neighborhood. He said the Planning Division recommends denial of this rezoning petition.

Ms. Robyn Askew, Chief Manager of Laird Development, along with Chris Gentry, Milton Realty, and Philip Royer, architect from the Architectural Services Group (ASG), represented the petition. Ms. Askew told the Commission that Walgreens came to Lynchburg a few years ago and had been very satisfied. She added that they were currently in the process of constructing another store on Waterlick Road in Campbell County. She said they had searched diligently for a corner lot on Langhorne Road, but they were either too small, too steep or had environmental concerns. Ms. Askew added that this opportunity came to her attention approximately a year and a half ago and they had been working to make certain they could address what she thought would be the Planning Commission's concerns. She said the commercial businesses along Langhorne Road were extensive with the hospital, offices, and retail space.

Mr. Chris Gentry, Milton Realty Service Company, Lynchburg, 7806 Timberlake Road spoke concerning this petition. Mr. Gentry said he and Ms. Askew had been working together for approximately six years concerning sites in Lynchburg as well as other areas in the state. He said in the early part of 2000 they started looking at Langhorne Road because Walgreens determined that there was a need for another store in that area. He said since the other sites on Langhorne Road had not worked out, they were led to the current site, which had a traffic signal, and was on a corner. He said on the corridor from the Chamber of Commerce building on Memorial Avenue to Tate Springs Road, there were only three parcels, including the subject property, that were not zoned either B-1 or B-3. He said they thought this site was the best solution even though they knew there were concerns with the existing residential units. Mr. Gentry corrected an earlier statement made by Mr. Martin explaining that only five entire buildings would be demolished and two units from a sixth building. He added that this complex was not 100 percent occupied and said even if those twenty-two units were removed, there would still be eleven vacant units in this complex.

Ms. Askew said the unit noted as number 1 on the site plan would not be demolished, and the unit noted as number 2 would only have two units demolished with the other two units remaining intact. She said they met with the TRC on May 18 and reviewed their comments. She noted that the grade on Murrell Road was lower than on Carrington Road, so in order to balance the site the driveway on Murrell had been moved closer to Langhorne to allow cross access for delivery trucks. Ms. Askew said there were several mature trees on the site, and they were asked to save those trees to balance some of the other issues they had with the site.

Commissioner Worthington asked about the vacant units in the complex. He asked if the renters moved from the 22 units being demolished, would the apartments then be fully occupied.

Ms. Askew said she understood that there was a plan in place to offer displaced renters housing in other apartments owned by Mr. Oglesby's company.

Ms. Askew told the Commission that based on concerns of TRC, as well concerns of Mr. Oglesby, they had tried to value engineer the site and address the issues raised at TRC. She said it had just recently come to her

attention that there was a huge issue with stormwater and she had not requested a change in the Comprehensive Plan. She added that she brought a letter with her requesting that change.

Mr. Philip Royer, AIA, Architectural Services Group, addressed the grade differential from Carrington Road to Murrell Road and the grading plan. He said they were constrained by over a 15-foot difference from the point of where the driveway connected to Carrington to where it connected to Murrell. He added that they realize that the driveway entering Murrell should be as far away from the signal as possible. However, in this case, he continued, if they pushed the driveway further away from Langhorne Road they would create a situation where that much of a topography change would be impossible. He added that they would probably have to remove an existing oak tree on Murrell Road, which they had been asked to retain. Mr. Royer said the driveway was approximately 150 feet from the center line, and added that he thought the City Engineer had gone on record requesting 250' of separation from the centerline of the driveway to the centerline of the intersection on Murrell Road.

Mr. Martin said the driveway was probably about 80 feet from the actual center line.

Mr. Schaefer Oglesby, owner of the property in the 2400 block of Langhorne Road said he would like to explain some loose ends about the apartments and where he was planning on going from this point assuming that this change does take place. He said he and Percy Montague, from Charlottesville, had been co-general partners in these apartments since 1985. He said these apartments were built in 1950, were given a shot in the arm in 1986, not long after they were purchased, but needed another shot in the arm now to modernizing and upgrade them. Mr. Oglesby explained that the limited partnership had about 20 partners who were getting older and were pushing to liquidate the partnership. He said the Walgreen's plan would enable him buy out the existing partners, making it a local ownership. He explained that when Walgreen's came along, it seemed like a viable deal to put him in control of the complex and enable him to upgrade the apartments. Mr. Oglesby noted that a lot of their renters had aged there, and expressed interest in building handicapped accessible units. He said it would be natural to have elderly units with easy accessibility to a Walgreen's. He added that over recent years they have had more and more difficulty renting the apartments that face Langhorne Road due to the heavy traffic and renters not wanting to park on Langhorne Road. Lastly, he said, this opportunity would allow him to construct more units on the excess property. He added that he would like to ultimately have 100 rental units, which was the number of units originally on that site. Mr. Oglesby said this was a win-win situation for everyone.

Mr. Bill Connelly, 2105 Westerly Drive spoke for himself, his business partner, and his mother, all who were in opposition to the petition. Mr. Connelly said the character of the neighborhood would change, as the area was mainly residential with some businesses that appeared to be residential and were landscaped nicely. He said Walgreens would destroy that residential feel. He added that they were concerned with noise pollution from the excessive traffic during rush hour as well as the emergency vehicles and helicopters taking patients to Centra Health. Mr. Connelly said the lighting from the proposed store would also be very bright, and the lights were usually not directed properly. He pointed out that there had been other drug store failures in the area, such as Rexall and Rite Aid. He added that for some reason Walgreens thought they needed to put up stores directly across from CVS and added that the pattern needed to be broken. Mr. Connelly continued by saying that the road connector was supposed to relieve some of the traffic in the area near where several new medical centers exist or were scheduled to be built. He said they had enough drug sales in the neighborhood and asked that the illegal drug sales be cleaned up before they add a store that sold drugs.

Commissioner Flint asked if they could vote to change the Comprehensive Plan at this meeting or would the have change have to be advertised.

Mr. Martin said they could not vote to change the Comprehensive Plan without advertising the proposed change. He added that the Planning Division did not recommend that the Commission go against the Future Land Use Map although it was their right to do so. He said the FLUM was never intended to be parcel specific. However, he noted, it seemed very clear to the Planning Division the intent for the area, and that was for residential uses. He said he thought it would be a bad precedent to set for the Planning Commission to go against their Land Use Map.

Ms. Askew asked when the Comprehensive Plan was adopted and the number of years the plan spanned.

Mr. Martin said the Comprehensive Plan was a 20 year plan adopted in 2002. He explained that the area was cited for medium density residential uses. He said that was why the TRC comments requested a letter from

the petitioner asking to amend the FLUM, which the City never received. He said since that request was never received, the City could not advertise that a change was being requested.

Ms. Askew said the comments were received after the deadline and she did not focus on that comment. She added that in the TRC meeting Mr. Martin did mention the land use change request, but she did not understand that it was a pre-requisite.

Commissioner Worthington asked where the City was coming from on the development of the Plaza, is it the City's thought that if they cut back on residential areas near the Plaza that redevelopment will not be as successful? Please talk him through the conceptual feeling.

Mr. Martin explained that any revitalization or rehabilitation of an area would follow the number of roof tops in that area. He said if the City demolished sound housing stock to allow for retail development, then the City would end up with another commercial corridor, such as Wards Road, Timberlake Road, or Old Forest Road. He added that the Comprehensive Plan called for that area to be revitalized under the Traditional Neighborhood concept, which would provide for a commercial core surrounded by multi-family uses and professional offices. Mr. Martin said that the Commercial Core in this area would be the Plaza, and the multi-family uses would be this property and professional offices like what was across the street from the site. He said a development like Wards Road was not what he thought the City had in mind for the area. He noted again that the City appreciated Walgreen's efforts to save some of the trees, and added that there were a lot of things the petitioner could have done so the site, but chose not to do. Mr. Martin continued by saying that the City was never told formerly that Mr. Oglesby was considering building more units on the property, so they had not had an opportunity to look into that suggestion. He added that all of those things could have weighed into the City's opinion on the project, but since they did not have that information, they recommended denial of the petition.

Commissioner Worthington said except for the little section of Langhorne Road near E.C. Glass High School, the area was pretty much developed with businesses along that road.

Mr. Martin said the majority of businesses across the street from the proposed site had parking to the rear or side of the building. He explained that this proposal would be set back off the street surrounded by asphalt like the typical retail development, and added that this did not following TND principals.

Ms. Askew said she was not trying to mitigate the requirements that the City placed on her. However, she explained, all of the property along Tate Springs Road passed E.C. Glass High School, to the rear of the proposed site, and the rear of Westerly Drive was zoned B-3 and B-1, with E.C. Glass High School being zoned R-3. She said the fact that they were getting rid of on-street parking along Langhorne Road, which was dangerous and unsightly, her plan mitigated a ton of other factors. She said they would have parking in front of the building, but due to the natural berm and the sloping topography, there would not be headlights or other things normally associated with a flat surface, free standing building and cars. She said Mr. Connelley talked about the lighting and she assured him that the lighting would meet the requirements of the City and would be shielded from the neighborhood.

Chair Dahlgren read a note from Commissioner Bacon. She said obviously the petitioner would have to adjust a number of their ideas to fit into the proposed location before the project could be approved. She wrote that the only thing on the petitioner's behalf was the business/ commercial/institutional uses from Memorial Avenue to the Farm Basket on Langhorne Road, with the exception of two blocks, Murrell and Westerly Drive. Commissioner Bacon said that perhaps the petitioner needed to revisit their plans for this corner.

Chair Dahlgren also read a letter from Ms. Karen Berry, a small business owner in town. Ms. Berry had the following comments:

1. The property was zoned residential and a number of families will be displaced. It would be hard to comprehend that they would tear down five buildings and leave the rest of the apartments within a stones throw. This would not be good for the residents or Walgreens.
2. There is a business property in the area already zoned for a drug store and is for sale. She said she would find it difficult to rezone this residential property for business with numerous properties available at this time.
3. A lesson should have been learned from one of your competitors – Rite Aide across from the library.

4. Does the rezoning conform to the City's General Plan?
5. The traffic situation would be congested even more with a drug store on the corner, and neither would be safe or pleasant for the residents or the children at the school.

Ms. Berry indicated that she knew that Walgreen's was an excellent company and would love to have them as a neighbor. She wrote that they could find a better location for their drugstore rather than the Langhorne Road area.

Mr. Gentry told the Commissioners that the small business owner who wrote the comments was a person whose property Ms. Askew had looked at and declined.

Ms. Askew continued by explaining that she had been extremely interested in the business owner's property, but the selling price was approximately three and one half times what the property was worth. She said they had been in contact with that individual twice over the last three and one half years, and when this project became public, Mr. Gentry received a phone call from her asking Walgreens to revisit the offer, which Ms. Askew said tried to do.

Commissioner Hamilton asked if Walgreens was opposed to locating in places that were already commercially developed as opposed to building its own stand-alone building.

Ms. Askew said Walgreen's did not give her the freedom to find a site and present it to them. She said they had a formal real estate committee that reviewed the suggested sites and several had been turned down due to expense, topography, shape of land, and access. She explained that when they looked at sites, Walgreen's wanted 20,000 people in a 2-mile radius, wanted to be at an intersection of two extremely busy roads, one of which they did not have here because of the "T" intersection. Additionally, Ms. Askew said, Walgreen's wanted a signalized intersection and wanted to be close to places people traveled to and from work. She said the company's general requirement was 75,000 square feet for a buildable pad, plus 70 or more parking spaces. She noted that this project would be a way to give the owners of Village Oaks additional capital to get local ownership, upgrade what was there, and get the off-street parking situation taken care of.

Chair Dahlgren asked if there would be a left turn west from Langhorne Road into the site, and if there were two drive through windows.

Ms. Askew said there was a turn from Carrington Road at the signal light. She said it was a double drive-through similar to what a bank would have.

Chair Dahlgren said he found it very difficult to approve this location for the store especially with having to tear down apartments and the traffic concerns. With that said, he added, if Ms. Askew came back to the Commission with a petition to revise the Future Land Use Map, address the additional parking and other issues that the staff asked for he might consider the petition differently. He said currently, however, he was not in favor of the petition.

Commissioner Worthington said most of Langhorne Road was zoned either B-1 or B-3, and even though there was no retail space, the street had been developed. He said he understood the City's concern about needing a certain population to support the Plaza, but added that the owner of the apartments needed capital to fix them up and build additional units. He said if the petitioner could work out some of the issues that the City was concerned about, he would support the plan. In the long run, he added, the construction of a Walgreen's would help the rest of the units and maybe almost provide the same number of units that would address the Planning Department's concerns.

Commissioner Echols asked Ms. Askew if Walgreen's wanted high school students running in and out and loitering on the property.

Ms. Askew said she thought Walgreens was one of the best run companies in the country. She said they kept their stores very clean, very safe and they did not tolerate loitering. However, she added, teenagers were a huge buying power.

Commissioner Echols asked about the traffic density, the intersection, and the proposed addition to the hospital. He said the Plaza really needed help and suggested that Ms. Askew look at that site.

Ms. Askew said the reason Walgreen's chose the locations that they chose was because the traffic was already there. She said there were not many new trips generated by the construction of a Walgreen's. She said they were usually located on a road that was on the customer's way home. She added that Walgreen's hoped to be a positive impact on the area. Ms. Askew said she thought the intersection was designed to handle any additional traffic, and added that the hospital was one of the reasons that this site was attractive. Ms. Askew said the proposed store would provide 25-30 jobs immediately.

Commissioner Hamilton said she believed that the redevelopment of the Plaza should be the City's next priority. However, she said the proposed site needed some kind of essential service, but did not know if Walgreen's was that essential service. She added that development on this site would not stop the development of the Plaza, but could only help it. Commissioner Hamilton said the key to redevelopment was to provide essential services and there had to be some way to do that. She said it was admirable that the apartment complex was going to add some units that will be senior friendly.

Commissioner Pulliam said this was a Catch 22 situation as it had some good merits and some not so good merits. He said his biggest problem was the traffic and added that, in his opinion, the traffic outweighed all of the good. He said selling the property to acquire revenue to renovate the other existing buildings sounded very good, but there was no guarantee that that was what the revenue would be used for.

Commissioner Flint said if they voted at this meeting he would have to vote against the petition because it went against the Comprehensive Plan, which they worked so hard to bring about. He added that he thought the entrances would create some traffic issues. He said unless the Comprehensive Plan changed, he would vote against the proposal, and followed up by saying that he was not sure he would vote to change the Comprehensive Plan.

Chair Dahlgren said he agreed that the FLUM would have to be changed. He said since they had had the public hearing, could they postpone the decision on this petition, and allow Walgreen's time to come back.

Mr. Martin said at this meeting he received a request submitted by Walgreen's asking that the FLUM be changed. He added that it was between the Commissioners and the petitioner to decide if they wanted to vote on the change at this meeting. But again, he requested that Commissioners remember that they would be setting a precedent that would go against the Comprehensive Plan. He said if they postpone the vote today, then the City would advertise the Future Land Use Map amendment, which would probably be on the agenda in July for Planning Commission and in August for City Council. Mr. Martin explained some of the traffic concerns saying that if vehicles were queued up on Murrell and there was a vehicle trying to leave the Walgreen's site, there was potential for them to get hung out in the through lane, which could result in an accident. He added that there was a sight distance problem with vehicles making a right turn into Walgreen's site being rear ended by someone turning off Langhorne Road onto Murrell Road or someone being T-boned exiting the Walgreen's site by someone turning off Langhorne Road onto Murrell Road. He noted that that was why the City Traffic Engineer requested that this entrance be moved to the other end of the property. He concluded that the Traffic Engineer and the Planning Division concur that under no circumstances could the City support this entrance due to the safety issues.

Commissioner Echols said the Comprehensive Plan should be kept the way it is and should not be changed.

Chair Dahlgren told Ms. Askew to keep in mind that even if the FLUM petition came before them, the Commission might reject the petition based solely on that, and once they did that, it would negate the other item. He reiterated Mr. Martin's comments saying that the staff had some serious concerns about traffic. He told Ms. Askew that she should give some serious thought and try to satisfy those concerns before she came back to the Commission. He added that the City's FLUM was a benchmark for the State of Virginia for the work they did on the Comprehensive Plan, and that the Planning Commission and City Council were committed to it.

Ms. Askew said she understood the concerns. She said she would use the next few days or weeks trying to address these issues. She pointed out that in the staff report a statement saying that “The goal for this area as stated in the *Comprehensive Plan* was to redevelop the area into an integrated in-town community with a commercial retail core...” She added that the City did not have that retail core right now, at least on this end of Langhorne. Ms. Askew said she wanted to work with Mr. Martin and others to get what the City was looking for, and requested that the Commission postpone the vote on this request allowing the Comprehensive Plan change to be advertised.

Commissioner Echols said he did not think Ms. Askew should consider revising the Comp Plan. He said that the Commission put months and years into developing the plan and if they now start to change it, it would open a bag of worms.

Chair Dahlgren said if a petitioner came to them and asked the Commission to change the Comprehensive Plan, then the Commission had to address the request, even though they might not agree with the petition.

Ms. Askew asked if they could rezone the property without changing the Comp Plan.

Chair Dahlgren said they could do that. He said the City Council commissioned the Commission to develop the Comp Plan and approved it. He said they legally could do it, but they have not done

Ms. Askew said she was trying to preserve her legal arguments and her rights to appeal to City Council. She said she sensed that there was some disagreement as to what had to be done in order for her to preserve those rights.

Mr. Martin said she was correct. He said if the Commission voted today, they should vote on the basis that her petition did not meet the Comprehensive Plan. He said if there was an appeal in court she would loose because of that fact. Mr. Martin said unless there were substantial changes to the plan, he was not sure that the Planning Division would change their recommendation on the petition.

Ms. Askew requested that the Commission delay their vote on this rezoning, advertise the Comprehensive Plan change, and vote on the petition in the correct order.

After discussion, Commissioner Flint made the following motion, which was seconded by Commissioner Worthington and passed by the following vote:

“That the Planning Commission postpone voting on the rezoning Petition of Laird Lynchburg, LLC to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow the construction of a pharmacy.”

AYES:	Dahlgren, Echols, Flint, Hamilton, Pulliam, Worthington	6
NOES:		0
ABSTENTIONS:		0

MINUTES FROM THE JULY 28, PLANNING COMMISSION MEETING.
These minutes have been reviewed, but not approved, by the Planning Commission.

Petition of Laird Lynchburg, LLC to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) to allow the construction of a pharmacy.

Mr. Martin said that since the public hearing had been closed at the June 9th Planning Commission meeting, the Commissioners would have to vote to reopen the public hearing. If they chose to reopen the public hearing, he continued, the Commissioners could ask direct questions to the petitioner, but not allow another presentation.

The Commission chose not to reopen the Public Hearing.

Commissioner Pulliam made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

“That the Planning Commission recommends denial of the petition of Laird Lynchburg LLC to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional).”

AYES:	Bacon, Dahlgren, Echols, Flint, Hamilton, Pulliam, Worthington	7
NOES:		0
ABSTENTIONS:		0

CITY COUNCIL MEETING OF AUGUST 10, 2004

// In the matter of Community Planning – Zoning Amendments, a public hearing was held regarding City Council Report #10 regarding the petition of Laird Lynchburg, LLC to amend the Future Land Use Map for approximately 2.2 acres in the 2400 Block of Langhorne Road to allow the construction of a pharmacy. Community Planning Director Rachel Flynn along with City Planner Tom Martin provided an overview regarding the request stating that the petition does not agree with any aspect of the Comprehensive Plan. Mr. Ted Craddock, an attorney representing the petitioner, outlined the request and asked for approval. Mr. Craddock stated that the portion of Langhorne Road from Holy Cross School to Memorial Avenue included several banks, filling stations, florist, offices, the local television station, the hospital, a high school and many other businesses, plus two residential areas. Mr. Craddock went on to say that the project would replace five older apartments buildings that are located close to a busy commercial thoroughfare with an expensive, well-designed, well landscaped pharmacy, retaining many of the large trees, and added that the residents of the area would benefit from the pharmacy. Mr. Schaefer Oglesby, a principal in Village Oaks, LP, spoke in support of the petition stating that he intends to construct new apartments in the rear of the property to replace the older units that are being demolished. Mr. Bill Connelly, a resident of the Langhorne Road area, spoke in opposition and expressed his concern that if the petition is approved, it would set a dangerous precedent for the future and damage the value of the surrounding properties. Mr. Andy Sale, a member of the Comprehensive Plan Citizens Planning and Monitoring Committee, spoke in opposition stating that approval of the petition would violate the principles of the Comprehensive Plan. During rebuttal, Mr. Craddock stated that the development of a neighborhood pharmacy would benefit everyone in the area, that the project would not increase the traffic, and would revitalize the area. There was no one else present who wished to speak to this item and the public hearing was closed. Vice Mayor Joan Foster stated that since her husband is a pharmacist, she contacted the City Attorney and has ascertained that it would not be a conflict of interest for her to participate regarding this matter since neither of them would profit financially from this endeavor. In response to questioning, Ms. Robin Askew, of Laird Development, stated that her company has been looking for approximately five years for a site on Langhorne Road for a Walgreens store and explained why the sites previously considered did not work. Council Members discussed at length the petition and

commented that this is a very commercial area, that there are currently similar businesses located in this area, that the proposed use would not increase traffic, and that the new store would enhance the area. Council Member Helgeson made a motion, seconded by Council Member Dodson, to support the proposed amendment of the Future Land Use Map. Council Member Johnson voiced concern that he did not have adequate time to review the information that was at his place when he took his seat for tonight's meeting and stated that he needed additional time to review the information. Other Council Members also stated that they would like additional time to review the request. Council Member Helgeson stated that in light of these comments, that he would withdraw his original motion and make a substitute motion to delay the vote and request that this matter be scheduled for work session discussion. In response to questioning, City Attorney Walter Erwin stated that no vote was needed and that City Council by consensus could schedule this item for work session discussion. Following discussion, it was the consensus of City Council to schedule a work session regarding this matter for September 14, 5:00 p.m., City Hall.

// In the matter of Community Planning - Zoning Amendments, a public hearing was held regarding City Council Report #11 outlining the petition of Laird Lynchburg, LLC to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a pharmacy. City Planner Tom Martin stated that staff is recommending that no action be taken regarding this petition until a decision has been made with regard to whether or not to amend the Future Land Use Plan. Mr. Ted Craddock, an attorney representing the petitioner, outlined the request and asked for approval. Mr. Bill Connelly, a resident of the Langhorne Road area, spoke in opposition stating that the proposed pharmacy would destroy the character of the neighborhood. There was no one else present who wished to speak to this item and the public hearing was closed. Council Members discussed the traffic safety concerns regarding the Murrell Road entrance to the site. In response to questioning, Ms. Robin Askew, of Laird Development, stated that the site plan had been revised to respond to traffic concerns. City Planner Martin stated that staff did not have a copy of the latest site plan and asked that the developer provide the City with one as soon as possible. City Manager Kimball Payne also asked that copies of the new site plan be provided to City Council. Following discussion, it was the consensus of City Council to schedule a work session regarding this matter for September 14, 5:00 p.m., City Hall.

CITY COUNCIL MEETING OF September 14, 2004

// City Planner Tom Martin provided an overview regarding the two petitions stating that both the Planning Division and Planning Commission have recommend denial of the requests. Mr. Martin explained that neither petition agrees with any aspect of the City's Comprehensive Plan and would require the demolition of sound multi-family housing and relocation of residents. Mr. Martin went on to say that the Comprehensive Plan recommends a Medium Density Residential Use for the property and that the redevelopment of the area should follow the Traditional Neighborhood Development principles. The City's Urban Forester Klaus Schreiber provided an analysis regarding the impact the proposed construction would have on the survival rate of the surrounding trees. City Traffic Engineer Garry Harter provided an overview regarding the revised ingress/egress traffic pattern from this site to Murrell Road explaining that the petitioner also plans to install a right-hand turn lane which should help the traffic flow at the Langhorne Road/Murrell Road intersection. Council Member Gillette challenged Walgreens' proposed design which puts the building in the center of a 65-space parking lot, explaining that the community of Brookline, Massachusetts, was able to get Walgreens to build their building to meet standards set in the community's land use plan. Council Member Seiffert commented that the revised ingress/egress traffic plan addresses some of his traffic concerns, but that he is still concerned about the potential loss of some of the trees and with the location of the Walgreens store on this site. Vice Mayor Foster stated that she is concerned about the traffic and does not feel that this is the best location for the Walgreens store. Some Council Members commented that the inner city is in need of a twenty-four hour pharmacy and that the pharmacy would be compatible with other commercial businesses in the area. City Manager Kimball Payne stated that this item is scheduled for further consideration at the 7:30 p.m. Council meeting.

// In the matter of Community Planning – Zoning Amendments, further consideration of the petition of Laird Lynchburg, LLC, to amend the Future Land Use Map and to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a pharmacy was considered. City Manager Kimball Payne stated that City Council held a public hearing regarding these requests at its August 10 meeting and discussed both at length at its earlier work session. Ms. Robin Askew, of Laird Development, asked City

Council to delay action for a couple weeks to allow time to try to address some of the outstanding issues regarding the site that were discussed at the work session. Council Member Foster suggested a meeting between Ms. Askew and City Planner Tom Martin prior to bringing this matter back before City Council. City Manager Kimball Payne stated that he would also attend the meeting, and that it is his understanding that the outstanding issues involve moving the building closer to the street in keeping with the "Traditional Neighborhood Development" principles in the Comprehensive Plan and making an effort to save some of the trees on the property. City Council agreed to delay action regarding these items and scheduled another work session for October 12 at 5:00 p.m.

CITY COUNCIL MEETING OF October 12, 2004

// City Manager Kimball Payne provided a brief update regarding actions taken since the last work session with regard to the petition of Laird Lynchburg, LLC, to amend the Comprehensive Plan and to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a Walgreens pharmacy.

Mr. Payne explained that these are two separate items and that City Council would first need to make a decision as to whether or not to amend the Comprehensive Plan prior to considering the rezoning request.

During the work session, City Council focused its discussion on whether the proposed amendment to the Comprehensive Plan would be in the best interest of the City. A number of Council Members stated that they had spoken with many citizens complaining about the Wards Roads traffic situation, and questioning whether that situation was due to poor planning for that area. They also stated that the City needed to develop a long-range plan for the Midtown/Plaza Area instead of making a change to the Comprehensive Plan to accommodate one private proposal. Council Member Helgeson stated that the 2.2 acres under consideration is located in a business corridor and would bring needed revenue and jobs to the City.

Council Member Dodson stated that the City should take advantage of opportunities when they present themselves, like the Walgreens proposal, so that developers will not look to take their business outside of the City to the surrounding counties. In response to questioning, staff explained that a private consultant would need to be hired to do the study of the Midtown/Plaza Area, and that the study could take up to nine months and cost as much as \$50,000. City Manager Payne stated that staff could develop a proposal for the November work session to outline exactly what the study would include, what it would cost, and how long it would take to complete. Following discussion, Council Member Helgeson made a motion to amend the Comprehensive Plan for approximately 2.2 acres in the 2400 block of Langhorne Road from Medium Density Residential to Community Commercial. The motion was seconded by Council Member Dodson, and Council by the following recorded vote defeated the motion:

Ayes: Dodson, Helgeson, Hutcherson	3
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Noes: Foster, Gillette, Johnson, Seiffert	4
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Vice Mayor Foster made a motion to postpone the request of Laird Lynchburg, LLC, to rezone approximately 2.2 acres in the 2400 block of Langhorne Road, and asked that a study be done of the

Midtown/Plaza Area with the results of such study to be brought back to City Council as quickly as possible. The motion was seconded by Council Member Seiffert, and Council by the following recorded vote defeated the motion:

Ayes: Foster, Gillette, Seiffert 3

Noes: Dodson, Helgeson, Johnson, Hutcherson 4

Council Member Johnson made a motion to reconsider the rezoning request of Laird Lynchburg, LLC. The motion was seconded by Vice Mayor Foster, and Council by the following recorded vote agreed to reconsider the rezoning request:

Ayes: Foster, Gillette, Johnson, Seiffert 4

Noes: Dodson, Helgeson, Hutcherson 3

Vice Mayor Foster made a motion to postpone the request of Laird Lynchburg, LLC, to rezone approximately 2.2 acres in the 2400 block of Langhorne Road, and asked that a study be done of the Midtown/Plaza Area with the results of such study to be brought back to City Council as quickly as possible. The motion was seconded by Council Member Seiffert, and Council by the following recorded vote approved the motion:

Ayes: Foster, Gillette, Johnson, Seiffert, Hutcherson 5

Noes: Dodson, Helgeson 2

CITY COUNCIL MEETING OF FEBRUARY 8, 2005

// In the matter of Community Planning - General, City Council Report #14 regarding approval of the proposed Mid-Town Area Plan scope of work was considered. City Manager Kimball Payne provided a brief overview regarding the request. Mr. Payne went on to say that the cost of approximately \$170,000 will be covered by unused demolition funding in the General Fund (\$110,000) and from Community Development Block Grant (CDBG) funding (\$60,000) with expenses of approximately \$20,000 to be covered in the budget of the Department of Community Planning and Development. Council Member Helgeson stated that the earlier request for the location of a Walgreens store at the corner of Langhorne/Murrell Roads was the genesis of moving forward with the proposed Mid-Town Area study, and that City Council needed to go ahead and take a vote on that petition instead of having them wait until the study is done. Council Member Helgeson made a motion, seconded by Council Member Dodson, to reconsider the petition of Laird Lynchburg, LLC, to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a Walgreens pharmacy. City Manager Payne reminded City Council that they would first need to make a decision as to whether or not to amend the Comprehensive Plan prior to considering the rezoning request. Some Council Members stated that the Mid-Town Area study is called for in the City's Comprehensive Plan, and that the study is important in that it is a set of guidelines on how the land should be used. Mr. Helgeson along with Council Member Dodson stated that it was an inappropriate use of taxpayers dollars to hire a consulting firm to study private property, and expressed concern that none of the large private property owners were willing to help fund the study. Council Member Johnson questioned whether Council Member Helgeson, who was not on the prevailing side of the vote that was taken on October 12 to postpone the Laird rezoning petition indefinitely, could make the motion to reconsider. City Attorney Walter Erwin stated that only a member who was on the prevailing side could make the motion to reconsider. Council Member Helgeson withdrew his motion. On motion of Vice Mayor Foster, seconded by Council Member Seiffert, Council by the following recorded vote approved the proposed Mid-Town Area Plan scope of work, including the funding sources as outlined in the Council report for the approximate \$170,000 cost of the study and the additional \$20,000 for expenses:

Ayes: Foster, Gillette, Johnson, Seiffert, Hutcherson

5

Noes: Dodson, Helgeson

2

// In an item not on the agenda, Council Member Johnson made a motion, seconded by Council Member Helgeson, to reconsider the petition of Laird Lynchburg, LLC, to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a Walgreens pharmacy. Mr. Tad Craddock, an attorney speaking on behalf of Robin Askew, of Laird Development, stated that the site for the proposed Walgreens will be developed as a commercial site, and also that Ms. Askew has stated that she would be willing to consider a Planned Unit Development for the site. Vice Mayor Foster stated that the Comprehensive Plan called for a Traditional Neighborhood Development of the site. Some Council Members stated that they would be willing to hear from Ms. Askew regarding plans for the site at the February 22 work session. The vote was called on the motion, and Council by the following recorded vote agreed to reconsider the petition of Laird Lynchburg, LLC, to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road, from R-4, Multi-Family Residential District, to B-3, Community Business District (Conditional) to allow the construction of a Walgreens pharmacy, and asked that the item be scheduled for the February 22 work session:

Ayes: Dodson, Helgeson, Johnson, Hutcherson

4

Noes: Foster, Gillette, Seiffert

3

CITY COUNCIL MEETING OF February 22, 2005

// City Manager Kimball Payne informed that at the February 8 meeting City Council requested that the petition of Laird Lynchburg, LLC. to rezone approximately 2.2 acres in the 2400 Block of Langhorne Road to allow the construction of a Walgreens pharmacy be placed on the work session agenda. Mr. Payne went on to say that staff has not received any new information from the petitioner regarding the request. Ms. Robin Askew of Laird Development along with her attorney, Ted Craddock, presented a brief overview regarding the status of the project, stating that the current option on the property expires on February 28, 2005. Ms. Askew also distributed a copy of an October 6 response to City Planner Tom Martin agreeing to a majority of the recommended changes to the proposed site plan, in addition to a written proposal from Schaefer Oglesby delineating certain items that he has agreed to with regard to the development and upgrade of the remainder of the property. Ms. Askew also stated that Laird Development will donate \$10,000 toward the Mid-Town Area Plan if the rezoning is approved at this time. Council Member Helgeson reiterated his support of the project, and stated that the proffers submitted by Mr. Oglesby in addition to the \$10,000 donation to the Mid-Town Area Plan were a welcomed addition. In response to questioning from Council Member Gillette, Ms. Askew stated that there have been no substantial changes to the current site plan from the site plan presented in October. Council Member Gillette questioned why City Council should again be discussing the rezoning request since there have been no changes to the site plan submitted in October. City Manager Payne explained that in October City Council did not discuss the rezoning request following the denial of the amendment to the Comprehensive Plan. Other Council Members stated that they would still like to wait until the Mid-Town Area Plan is completed before making a decision regarding the rezoning request. City Manager Payne stated that staff should have a draft of the plan sometime in May. In response to Council questioning, Ms. Askew stated that Walgreens could wait for the study, but Mr. Oglesby stated that he was unsure if the other property owners would be willing to wait. In response to Council questioning, City Attorney Walter Erwin stated that prior to considering the rezoning request, City Council would need to rescind its earlier decision denying the amendment to the Comprehensive Plan. Council Member Dodson made a motion to rescind the October 12 decision and to reconsider an amendment to the Comprehensive Plan for approximately 2.2 acres in the 2400 block of Langhorne Road from Medium Density Residential to Community Commercial. Mr. Erwin explained that

unless there has been previous notice regarding the motion to rescind, it would take five votes to approve the motion to rescind. Council Member Dodson stated that he intended to make a motion at City Council's 5:00 p.m. meeting to rescind the October 12, 2004, vote denying an amendment to the Comprehensive Plan to change a 2.2 acre tract of land in the 2400 block of Langhorne Road from a Medium Density Residential Use to a Community Commercial Use.

// In an item not on the agenda, and as previously announced at the 1:00 p.m. work session, Council Member Dodson made a motion to rescind the October 12, 2004, vote denying an amendment to the Comprehensive Plan to change a 2.2 acre tract of land in the 2400 block of Langhorne Road from a Medium Density Residential Use to a Community Commercial Use. The motion was seconded by Council Member Helgeson. In response to questioning, City Attorney Walter Erwin stated that since Council Member Dodson made an announcement of his intent to make the motion at the earlier work session, only four votes would be needed to approve the motion to rescind. The vote was called on the motion, and Council by the following recorded vote agreed to rescind the October 12, 2004, vote denying an amendment to the Comprehensive Plan to change a 2.2 acre tract of land in the 2400 block of Langhorne Road from a Medium Density Residential Use to a Community Commercial Use:

Ayes: Dodson, Helgeson, Johnson, Hutcherson 4

Noes: Foster, Gillette, Seiffert 3

Council Member Helgeson asked that City Council move forward and approve the amendment to the Comprehensive Plan in addition to the rezoning request from Laird Lynchburg, LLC, to allow the construction of a Walgreens pharmacy. Council Member Helgeson reiterated that the 2.2 acres under consideration is located in a business corridor and would bring needed revenue and jobs to the City. Council Member Helgeson went on to say that the entire project might be in jeopardy if the developer is not able to extend the option on the property past the February 28 deadline. Other Council Members commented that Ms. Askew stated at the work session that Walgreens could wait for the study, and, so, therefore, they would also like to wait until the Mid-Town Area Plan is completed before making a decision regarding the rezoning request. Following discussion, Council Member Helgeson made a motion, seconded by Council Member Dodson, to amend the Comprehensive Plan for approximately 2.2 acres in the 2400

block of Langhorne Road from Medium Density Residential to Community Commercial. Council Member Johnson made a substitute motion to postpone the request to amend the Comprehensive Plan for approximately 2.2 acres in the 2400 block of Langhorne Road from Medium Density Residential to Community Commercial until the Mid-Town Area Plan is completed, and Council by the following recorded vote approved the substitute motion:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson	6
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Noes: Helgeson	1
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Service Since 1981

October 6, 2004

Mr. Tom Martin, AICP
City of Lynchburg, VA
900 Church Street
P.O. Box 60
Lynchburg, VA 24505

**RE: 1245 - WALGREENS AT LANGHORNE AND MURRELL ROADS
LYNCHBURG, VA**

Dear Mr. Martin:

Your letter dated September 24, 2004 has been reviewed by Walgreens, developer Laird Development, LLC, and by ASG. It is our desire to accommodate as many of your requested changes as possible. Please refer to your letter as you read the following responses and the numbered notes on the site plan:

1. *Movement of the building closer to Langhorne* - Your request cannot be implemented and maintain vehicle circulation and function of the building.
2. *Movement of the Langhorne sidewalk away from new turn lane* - This can be implemented. The sidewalk should be at least 5 feet from the curb.
3. *Connections to public sidewalks* - The existing site plans indicate a pedestrian connection from Walgreens front entrance to the sidewalk along Murrell. That route was chosen in order to avoid the slope up to Langhorne. We propose to add another pedestrian connection from the north corner of the building sidewalk out to the sidewalk along Langhorne near Carrington. A bicycle rack will also be added near the front entrance.
4. *Retention of large existing trees* - We are agreeable to your proposal in principal, assuming that a time limit of two years from project completion can be added.
5. *Creation of a facade at the drive-thru* - The design can be modified to implement this change, but only if the pavement setback along Carrington is relaxed to allow for adequate room for trucks to circulate around the extension of the drive-thru roof. Since the drive-thru roof already is "A" shaped, as you requested, then it would be our preference not to extend the roof line over the entire outside drive-thru lane, thus avoiding the need to violate the pavement setback.

6. *Planting of shrubs as parking buffers* - The site plans already indicate dwarf Burford hollies at 4 feet on center along the perimeter of the parking area along Langhorne and Murrell. These shrubs will form a solid hedge that can be sheared at the height of 3 to 4 feet.
7. *Planting shade trees in islands* - The number of parking spaces is already at a minimum, due in part to the new exit driveway to Murrell. In some areas, the shade from the large existing trees to be preserved will fall on the pavement. In addition, 2 red maples, 1 crabapple, 9 magnolias and 23 hollies are added around the perimeter of the site.
8. *Planting of foundation landscaping* - We propose to add two areas of landscaping close to the building, one at the north corner, the other at the south corner.
9. *Windows in the building facade* - The revised building rendering dated September 10, 2004, attempted to address this concern by adding more glass high and low in the Langhorne and Murrell facades. The tower over the entrance gives the appearance of a second story and contains glazing, which will be lighted. I have included a color copy of the proposed building design in the package mailed to you.
10. *Cloth awnings over the windows and doors* - Your request is not acceptable due to the increased maintenance and limited life of cloth awnings.
11. *Lighting that is pedestrian in scale* - Obviously security of their patrons is Walgreens concern. We propose to lower the pole height from 30 feet to 20 feet and the pole lighting will be supplemented by decorative fixtures on the building. The use of cut-off fixtures in lieu of decorative fixtures atop the poles minimizes the amount of light migrating from the site.
12. *Dumpster areas screened* - The dumpster area is already fully screened by an 8 foot high, opaque fence.
13. *Monument style ground sign* - We propose a 15 foot high monument sign with LED reader board to change no more often than once per minute.

Laird Development, LLC and Walgreens propose to amend the proffers to the rezoning request to include the above listed revisions. That change should be noted in the presentation to City Council. Thank-you.

Sincerely,



Philip A. Royer
President

CC: Robyn Askew, Laird Development, LLC

W:\TMP\1245\1245\lfr2 wpd



THE CITY OF LYNCHBURG, VIRGINIA

Planning Division
September 24, 2004

Ms. Robyn Askew
Laird Development, LLC
5500 Lonas Drive, Suite 300
Knoxville, TN 37909

City Hall, 900 Church Street, P.O. Box 60
Lynchburg, Virginia 24505 • (434) 455-3900
FAX • (434) 845-7630

Dear Robyn:

Thank you for meeting with Kim Payne and myself on September 22, 2004. During this meeting we discussed possible design changes to the proposed Walgreen's site in the 2400 Block of Langhorne Road. The following is a list of items that would help the site to be developed more closely to "Traditional Neighborhood Development" principles. Please review the list and respond as to whether the proposal "is" or "is not" acceptable to Walgreen's.

- o Movement of the building closer to Langhorne Road and the movement of parking to the sides and rear of the proposed building.
- o Movement of the Langhorne Road sidewalk as far away from the turning lane as possible without negatively impacting the mature trees.
- o Connection to all adjoining sidewalks from the proposed Walgreen's. For example this could be accomplished by a designated pedestrian crosswalk in the front the proposed store and a pedestrian connection to the sidewalk on Langhorne Road by stairs or a sidewalk.
- o Retention of existing large deciduous trees along perimeter of property. Agreement that if the trees die, they will be replaced, two (2) for one (1), with at least six (6) inch caliper deciduous shade type trees. Species to be determined by the City's Urban Forester at time of replacement.
- o Creating a façade on the end of the proposed drive thru parallel to Carrington Road. Windows should be included to give the appearance that this is an extension of the main building. The drive thru should have an integrated "A" type roof line.
- o Planting of medium height shrubs along the frontage of Langhorne Road, to further buffer the parking area.
- o Planting of shade trees in islands within the parking area.
- o Planting of foundation plantings around the perimeter of the building.
- o Windows in the building façade that, while keeping the design height, extend closer to the ground. As many of these windows as possible should be transparent to allow "eyes on the street" and give the appearance of a traditional store front window. If possible, false window in the upper portions of the building that would help give the appearance of a two (2) story building with residential on the second floor.
- o Cloth awnings over windows and doors.
- o Lighting that is pedestrian in scale. For example, a lighting fixture that is a maximum of twelve (12) to fifteen (15) feet in height and has a decorative fixture.
- o Dumpster areas that are screened totally from view.
- o Monument style ground sign.

The Planning Staff realizes that you may not be able to address every item. Please indicate the items that you are willing to address so that the best possible site plan can be presented to the City Council. If you would like to discuss these items further, please do not hesitate to contact me at (434) 455-3909.

Sincerely,

With 7 past
Tom Martin, AICP
City Planner

